

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 PM-05
NSC-05 SP-02 SS-15 /063 W
-----118758 221823Z /41

P R 221727Z FEB 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC PRIORITY 6100
INFO AMCONSUL FRANKFURT

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E.O. 11652: N/A
TAGS: EAIR, GW
SUBJECT: CIVAIR: AIRLINES DESIGNATIONS BETWEEN US AND
FRG

REF: A. STATE 40123 B. BONN 2283

1. FOLLOWING IS EMBASSY TRANSLATION OF SUBSTANTIVE
PORTIONS OF NOTE RECEIVED FROM FRG FOREIGN OFFICE
FEBRUARY 22:
THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY HAS
NOTED THAT THE GOVERNMENT OF THE UNITED STATES, WITH THE
AFOREMENTIONED NOTE, HAS DESIGNATED, IN ACCORDANCE WITH
ARTICLE 3 OF THE GERMAN-AMERICAN AIR TRANSPORT AGREEMENT
OF JULY 7, 1955, NATIONAL AIRLINES, INC. AS THE
FOURTH AMERICAN AIR CARRIER TO INAUGURATE SCHEDULED
AIR SERVICES ON ROUTE 3 OF PART A OF THE ROUTE SCHEDULE
TO THE AIR TRANSPORT AGREEMENT. THE GOVERNMENT WISHES
TO POINT OUT THAT, IN ACCORDANCE WITH ARTICLE 3 OF THE
AGREEMENT, THE GERMAN AUTHORITIES, AS AN ADDITIONAL
PREREQUISITE, MUST ISSUE THE APPROPRIATE OPERATING
PERMISSION TO NATIONAL AIRLINES, INC. BEFORE THIS AIR
CARRIER MAY INAUGURATE THE PROPOSED SCHEDULED SERVICES.

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THE ISSUANCE OF THE OPERATING PERMIT IS SUBJECT TO GERMAN LAWS AND REGULATIONS, WHICH PRESCRIBE A FORMAL HEARING OF ALL PARTIES CONCERNED. WITHIN THE FRAMEWORK OF THIS HEARING, THE OTHER AIR CARRIERS PROVIDING SCHEDULED SERVICES BETWEEN OUR TWO COUNTRIES WILL ALSO BE GIVEN AN OPPORTUNITY TO BE HEARD.

THE PROPOSED OPERATIONS OF NATIONAL AIRLINES, INC. AS WELL AS THOSE PLANS WHICH HAVE EMERGED SINCE THEN ON THE PART OF PAN AMERICAN WORLD AIRWAYS TO PROVIDE DIRECT AIR SERVICES BETWEEN POINTS IN THE SOUTH OF THE UNITED STATES AND THE FEDERAL REPUBLIC OF GERMANY ARE WELCOMED IN PRINCIPLE BY THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY.

THE GOVERNMENT, HOWEVER, IS OF THE OPINION THAT THE AIR CARRIERS OF BOTH CONTRACTING PARTIES MUST HAVE THE OPPORTUNITY TO INAUGURATE SUCH DIRECT SERVICES IN ORDER TO ASSURE THE APPLICATION OF THE FAIR AND EQUAL OPPORTUNITY PRINCIPLE EMBEDDED IN ARTICLE 8 OF THE AGREEMENT FOR THE CARRIERS OF BOTH CONTRACTING PARTIES. FOR THE ADMINISTRATIVE PROCEDURE IN CONNECTION WITH THE ISSUANCE OF THE OPERATING PERMISSION FOR NATIONAL AIRLINES, INC., IT IS THEREFORE REQUESTED THAT THE GOVERNMENT OF THE UNITED STATES PRODUCE A BINDING DECLARATION AS TO WHETHER IT IS PREPARED TO GRANT THE DESIGNATED GERMAN AIR CARRIER RECIPROCAL RIGHTS OVER THE PROPOSED ROUTES TO BE OPERATED BY NATIONAL AIRLINES AND PAN AM.

2. IN DISCUSSION WITH EMBOFF FEBRUARY 21, STUKENBERG OF FEDERAL MINISTRY OF TRANSPORT (FMT) STATED THAT FRG FELT THAT LUFTHANSA SHOULD BE GIVEN DESIGNATIONS IN SOUTHERN US TO BALANCE NEW NATIONAL AND PAN AM RIGHTS.
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HE REITERATED THAT THE FRG WAS NOT NOW SEEKING CON-

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CAB-02 CIAE-00 COME-00 DODE-00 DOTE-00 INR-10

NSAE-00 FAA-00 L-03 /063 W

-----118760 221823Z /42

P R 221727Z FEB 78

FM AMEMBASSY BONN
TO SECSTATE WASHDC PRIORITY 6101
INFO AMCONSUL FRANKFURT

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SULTATIONS BUT NOTED THAT ARTICLE 8 OF THE BI-LATERAL SPECIFIES FAIR AND EQUAL OPPORTUNITIES FOR CARRIERS OF BOTH NATIONS ON THE ROUTES PROVIDED UNDER ARTICLE 2, CLAUSE 2 OF THE BI-LATERAL.

3. STUKENBERG SAID THAT FMT DEFINITELY WILL HOLD HEARINGS ON NATIONAL APPLICATION AND ON TWA'S AS WELL. HE HAS ASKED PAN AM FOR COPIES OF PROPOSED SCHEDULES ON ITS NEW ROUTES, AND DECISION ON WHETHER OR NOT TO HOLD HEARINGS ON THAT MATTER WILL BE MADE AFTER PAN AM'S REPLY HAS BEEN RECEIVED. STUKENBERG INDICATED THAT IN CASE OF NATIONAL AND TWA THE ENTIRE PROCESS WILL TAKE AT LEAST FOUR WEEKS, TWO WEEKS FOR INTERESTED PARTIES TO MAKE WRITTEN PRESENTATIONS TO THE FMT (LETTERS HAVE ALREADY BEEN SENT TO INTERESTED PARTIES AT LEAST FOR THE NATIONAL HEARING), ONE WEEK FOR THE FMT TO STUDY SUBMISSIONS AND ONE WEEK AFTER THE HEARING FOR THE FMT TO MAKE ITS DECISION.

4. ON BASIS ASSURANCES REF A, FMT HAS APPROVED NATION-AL'S ADVERTISING ITS ROUTES TO GERMANY WITH CAVEAT
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"SUBJECT TO GOVERNMENT APPROVAL".

COMMENT: WE DO NOT KNOW WHAT KIND OF GAME FMT IS PLAYING. IT IS HARD TO BELIEVE THAT PAAS OR STUKENBERG BELIEVE THEY WILL GET NEW DESIGNATIONS IN THE US SOUTH ON THE BASIS OF ARTICLE 8. DESPITE CLEAR IMPLICATION TO THAT EFFECT IN THEIR NOTE, THEY HAVE STOPPED SHORT SO FAR OF SAYING THAT SUCH DESIGNATIONS WILL BE A CONDITION TO APPROVAL OF NEW ROUTES FOR US CARRIERS. IT IS POSSIBLE THAT THEY ARE JUST BUILDING THEIR CASE FOR FUTURE CONSULTATIONS.

ACTION REQUESTED: GUIDANCE ON WHAT REPLY IF ANY EMBASSY SHOULD MAKE TO FMT.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, AIRLINES, DIPLOMATIC NOTES, AVIATION AGREEMENTS, AIR ROUTES
Control Number: n/a
Copy: SINGLE
Draft Date: 22 feb 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BONN03277
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780082-0507
Format: TEL
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780230/aaaaayxn.tel
Line Count: 168
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 65fb7d2-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 40123
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3529531
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: AIRLINES DESIGNATIONS BETWEEN US AND FRG
TAGS: EAIR, GE, US
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/65fb7d2-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014